



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/785,508	02/20/2001	Clemens Schmick	31512-168975	5369
26694	7590	05/04/2005	EXAMINER	
VENABLE LLP P.O. BOX 34385 WASHINGTON, DC 20435-9998			LOPEZ, CARLOS N	
			ART UNIT	PAPER NUMBER
			1731	
DATE MAILED: 05/04/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

25 AL

Office Action Summary

Application No.

09/785,508

Applicant(s)

SCHMICK ET AL

Examiner

Carlos Lopez

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 2-5,7,9,10,12,14-21 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 2-5,7,9,10,12,14-21,23-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Allowable Subject Matter

In further review of the cited references, the indicated allowability of claims 7, 23-25 are withdrawn.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 7, 23-24 and 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Dawson et al (WO 96/27304). Dawson et al discloses an apparatus for transporting a stream of particulate material. The apparatus comprises a channel formed by toothed side bands 52 and 54 or toothed side bands 96 and 98. Both walls of the channel as shown in figures 4 and 11 have recesses for receiving particulate material. The claimed means for moving the walls is deemed as the pulley system shown in figures 4 and 11. The limitation of claim 25, having a width of the channel path decrease in the direction of lengthwise movement is disclosed in page 8 lines 18-20.

As for claim 23, in page 4 lines 28ff, Dawson et al discloses an alternative means for moving the bands. The pulley moving the band includes projections, deemed as the claimed parallel bars, which engage the an mate with the teeth of the band as shown in figure 3 and described in detail in bridging paragraph of page 4-5.

As for claim 7, figure 3 shows the belt 40 being trained over a second toothless pulley.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-5,9-10, 12,15-21, 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson et al (WO 96/27304) in view of (Electric Drives and Their Controls). As noted above Dawson discloses an apparatus for transporting a stream of particulate material by training belts over a pulley. Dawson is silent disclosing the type of drive moving the pulleys. However, in pages 188-189, Crowder teaches "In drive systems, there have been an almost complete shift towards the use of digital rather than analog systems; this results in systems with a number of significant benefits." Among the benefits of using a digital drive is " the use of low-cost microprocessors", "digital control provides a highly flexible system", and "due to digital nature of the controller there will be no component variation". It would have been obvious to one of ordinary skill in the art at the time the invention was made to have chosen a digital (digital servo) as the means for moving the walls forming the channel of Dawson because it provides a low cost, a highly flexible system, and there is no component variation as taught by Crowder.

As for claim 10, Dawson notes that a band may have no projections, hence no recesses to densify the stream of cigarette material (See Page 9, lines 35ff).

Art Unit: 1731

As for claim 12, it would be obvious to coat the belts of Dawson with a current-conducting material such as an alloy in order to increase its durability.

As for claims 16-17, as best shown in figure 7, the claimed first wall is deemed as suction foraminous band 88.

As for claim 18, the claimed housing is disclosed in figure 7 showing the bands being supported by band 88.

As for claims 15 and 19, the recesses are equidistant as shown in figures 4 and 11.

As for claim 20, means for showering the particulate material onto the channel is deemed as shower channel 10 shown in figure 1.

As for claim 21, figures 4 and 11 clearly shows the channel as having a lengthwise and width orientation

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dawson et al (WO 96/27304) in view of (Electric Drives and Their Controls) as applied to claim 26 above, and in further view of Luke et al (US 3,915,075). Dawson discloses that the bands are flexible (Page 4, line 30) but is silent disclosing the type of material the bands are made from. However, Luke teaches that belts having polyurethane or polyethylene materials provide gripping of the cigarette rod without damaging it (Col. 2 lines 31ff). At the time the invention was made it would have been obvious to a person of ordinary skill in the art to provide Dawson's belt with polyurethane or polyethylene materials as taught by Luke in order to provide gripping of the cigarette rod without damaging.

Response to Arguments

Applicant's arguments with respect to the pending claims have been considered but are moot in view of the new ground(s) of rejection.

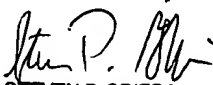
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carlos Lopez whose telephone number is 571.272.1193. The examiner can normally be reached on Mon.-Fri. 8am - 5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on 571.272.1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CL


STEVEN P. GRIFFIN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700